

in new claims 9-14. Therefore, the rejections thereof should be withdrawn.

With respect to Section 102(b) rejection of claims 1-3, it is believed that the new claim 9 is clearly distinguished from any one of the cited prior art. Claim 9 defines positively a biasing means which bias, but not locks the elongate tag engagement means in the first position when the first jaw and the second jaw are moved towards each other. None of the cited references teaches such a biasing means.

EP-A-0,004,221 of Lefebvre discloses an applicator having a rod-carrying mass (4) carrying a rod (6) to support the male portion of the tag. The mass (4) can be pivoted between two positions. However, there is no biasing means to bias the mass (4) in any one of the positions.

Filmer's two U.S. Patent Nos. 4,368,735 and 4,402,320 disclose respectively a pivotable member provided adjacent to an end of one of the jaws. The pivotable member is locked respectively by a complicated locking or engagement mechanism in a position during the application of the tag and released to pivot after the application of the tag. Thus, Filmers do not teach any biasing means.

The present inventor Mr. Gardner's two early U.S. Patent Nos. 4,552,147 and 4,819,639 disclose respectively a pin mounting member which is pivotably provided adjacent an end of one of the jaws. A pin restraining housing (18) (Gardner '147) is provided to lock a mounting pin (15) in a position during the application of the tag, while a spring (11) biases a base (9) of the mounting member (7) away from the jaw. Upon application of the tag, an actuating member (17) will compress the spring (11) so as to release the mounting pin (15) from the retaining housing (18).

As noted, the biasing spring (11) alone may not secure the mounting pin in the tag application position. The retaining housing (18) is required to lock the pin (15) in the tag application position. The release of the lock relies on the actuating member (17). Upon the completion of the application of the tag, the lock of the mounting pin cannot be released by merely pulling apart of the applicator from the animal or vice versa. Therefore, the potential tearing of the animal ear or skin cannot be prevented.

The present invention eliminates any locking mechanism of the

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mounting member in the tag application position and replaces such locking by a simple biasing means which can hold stably the mounting or engagement member in the tag application position. The biasing means can be released from that position by pulling apart of the applicator from the animal. Thus, the tearing of the animal's ear or skin can be effectively prevented.

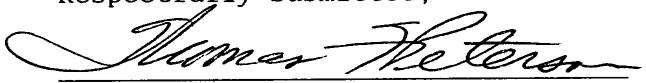
Furthermore, claim 9 also specifies the rearwardly angled direction of tag engagement means from the mouth of the jaws to assist the insertion process. The tag engagement means is directed generally towards the second jaw, but also slightly directed away from a line perpendicular with the first jaw and adjacent the end of the first jaw. Not only does such a tag engagement means direction provide greater moment about the pivot to retain the tag engagement means against movement of the animal but, should the animal attempt to remove its ear from the device and overcome this moment and bias, it can be seen that the initial rotation of the tag engagement means about the pivot will cause a downward movement of the tip of the tag engagement means prior to its passing a point at which the tip of the tag engagement means is perpendicular to the upper jaw and directly below the point of rotation. This downward movement assists in completing the insertion of the tag as the animal takes its ear from the mouth of the applicator.

Lefebvre and Filmer do not disclose such orientation of the respective mounting member. The respective mounting member thereof is perpendicular with the jaw. Nor does either of Gardner's early patents. Gardner's early patents have the mounting pin (15) curved a little bit for a better insertion process.

Accordingly, it is respectfully submitted that the present invention defined in claim 9 is patentably distinguished from any one of the cited prior art. Section 102(b) rejection has been overcome. Reconsideration is respectfully required.

In light of the foregoing, the applicant respectfully requests that the application as amended be allowed.

Respectfully submitted,



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